



MONTANA ASSOCIATION of CONSERVATION DISTRICTS

We're growing Montana's future.

To: Jason Mohr WPIC

From: Montana Association of Conservation Districts

Subject: Changes proposed by Montana Water Courts to WPIC

Dear Jason Mohr:

The following are comments submitted by the Montana Associations of Conservation Districts (MACD), regarding the proposed changes to the Montana Water Law and those changes proposed in WPIC. MACD represents 58 Conservation Districts located throughout the state of Montana. A good share of our members are either family farmers or community members that rely heavily on family farmers. The goal of MACD is to work towards the conservation of soil, water, and other natural resources.

Water Rights weigh heavily on the work that we do and, more importantly, the work of our membership and their ability to continue to survive on the family farm. Additional costs associated with the efforts to move and utilize jurisdictional authority over water is another hurdle agriculture must sustain and, in some cases, will prohibit our members and the farming community from utilizing this precious natural resource. One of our biggest issues with further complicating water issues is the cost of having to be represented by legal counsel with every step of the Water Rights process. The cost of legal representation can be more than what can be borne by young and beginning family farmers as well as established family farmers. Corporate and Investor large farms and ranches have no such problem, and when issues come up between the Corporate and the family farms, The Corporate farms are at a distinct advantage because of their financial resources. We realize that we cannot change this completely, but any further move of water rights to a judicial process only exacerbates this issue.

Current procedures are in place where, on many issues, operators can work with DNRC to make changes to water rights without being required to hire legal counsel. We feel that the current administrative process may be flawed but should not be changed without great thought and study.

We checked with DNRC, and since 2010 over 1,100 Change and Permit Application have been applied for, and only 23 of these have required an Administrative Hearing. Far fewer have been appealed to the Courts. Currently, applicants can work with DNRC to resolve issues and meet technical standards. We think that keeping these functions and leaving this responsibility with DNRC is important.

We disagree with the Montana Water Court's idea about referring all Irrigation District issues to the Water Courts. Most Irrigation District issues are local, non-water rights issues, and are currently dealt with by the local District Court. We would like to keep these District issues within the District Court. However, we do not oppose the Water Courts being available to assist the District Courts. We would like to express our

acknowledgement that the Water Courts role may change, but because of how important their assistance is to District Courts, they must continue to assist District Courts.

The current avenues for administering and enforcing water rights are working well and the Water Courts are involved in most enforced decrees. We believe that keeping them in their current state of operation is working and should not be changed at this time. We do, however, think that a review of possible ways to allow a District Court judges to get the Water Courts to assist them would be helpful, although the Water Courts is currently involved in most enforcement actions. A review of how that is legally done would be worthy. In the end, we do not support pulling localized control from the District Courts.

In addition, we oppose any effort to apply more judicial control of the Water Rights process that DNRC currently manages, but do support the idea that, on appeals the applicant can decide if they wish to have the District Court or the Montana Water Courts hear the case. Although most of these cases will eventually be heard by the Water Courts, we do like the current method of allowing the applicant that choice.

Although the Water Court is, and should be, involved in working with Water Commissioners, we feel that ultimate control of Water Commissioners should remain with the District Court and maintain local control. We do feel that the Water Courts should have a role in setting up Enforcement Actions, but day to day issues should remain local. We acknowledge that the Water Courts is, and will be, a major factor in administering Water Rights Decrees but feel that ultimate responsibility should remain with District Court.

We urge the Water Policy Interim Committee to put on the shoes of the Family Farmer when deciding on these issues.

Respectfully Submitted,

A handwritten signature in blue ink that reads "James G. Simpson". The signature is fluid and cursive, with the first name "James" and last name "Simpson" clearly legible.

Jim Simpson
MACD Board President